

Advocacy, Responsibility & Counseling Program

Larry Harris, Director

Division of HIV/STD/Viral Hepatitis

Indiana State Department of Health

History

- **July 1988 – Indiana enacted Public Law 123-1988**
- **ISDH is responsible for investigating carriers of communicable diseases**
- **Health Directive, Indiana Code 16-18-2-166: When a carrier is found to represent a serious & present danger to the health of others, the individual is to be approached from a public health standpoint that operates below the level of criminal law**
 - **Includes the least restrictive measures**

Advocacy, Responsibility & Counseling Program (ARC)

Primary Objectives

- **Decrease the spread of HIV by ensuring the compliance of the Duty to Warn laws as set forth by the state of Indiana.**
- **To receive complaints of persons who are not complying with the Duty to Warn laws**

Duty to Warn

IC 16-41-7

Individuals must inform sexual and needle sharing partners of their status prior to:

- Engaging in protected or unprotected sexual acts**
- Engaging in needle sharing activities**
- Signing a donor card or document or**
- Donating body fluids or parts**

Liability

- **Any person who has a reasonable cause to believe that another person is a serious and present danger to the health of others and has engaged in non-compliant behaviors or suspected of being a person at risk may make a report**
- **A person who makes a report in good faith is not subject to liability in civil, administrative, disciplinary or criminal actions**

How To File A Complaint

- **Verbal complaint**
 - **Can be cause for a Duty To Warn**
- **Written complaint**
 - **Can be cause for a Duty To Warn or a**
 - **Requirement for a Health Directive to be issued**

Confidentiality

- **HIV+ status is unknown until the case is researched**
- **Complainant is only informed of what can happen, not the actual outcome of the case**
- **Recalcitrant is not provided with any information about the complainant, time line, or any other details of the complaint**

After a Complaint is Filed

- HIV+ status is verified
- Written statement(s) and ISDH documentation is reviewed by:
**Surveillance, Division Director,
Assistant Commissioner and
State Health Commissioner**

Outcomes

- **Personal visit and a review of the Duty to Warn**
- **Personal visit, review of the Duty to Warn and served with a Health Directive**
- **Court action**
 - **Only if the individual fails to attend mandate counseling**
 - **Results in a court order vs. a state mandate to attend counseling**

**INDIANA STATE DEPARTMENT OF HEALTH
HEALTH DIRECTIVE**

TO:

DATE OF BIRTH:

You are hereby notified that it has been determined that your behavior is a serious and present danger to the health of others in that you have reportedly engaged in behavior that has been epidemiologically demonstrated to transmit a dangerous communicable disease, the Human Immunodeficiency Virus (HIV). Engaging in this behavior indicates a careless disregard for the transmission of this disease to others. Further, your past behavior and/or statements indicate an imminent danger that you will continue to engage in behavior that transmits HIV to others.

Pursuant to the authority given to Gregory N. Larkin, M.D., State Health Commissioner under IC 16-41-7 and 410 ICA 1-2.3-51, this Health Directive is hereby issued. You are prohibited from engaging in any of the following behaviors known epidemiologically to spread this virus without informing your partner of your HIV+ status:

1. Engaging in any unprotected intimate sexual act with anyone, including other HIV+ individuals. Even if you think that your partner is HIV+, you are not able to definitely determine that.
2. Engaging in any intimate sexual act with the use of a barrier technique (condoms, dental dams, etc.) without informing your partner of your HIV+ status and allowing your partner the opportunity to refuse to participate in the behavior. Although latex barriers and nonoxymol 9 can reduce risk, protection is not certain and intimate sexual acts can place your partner at risk of infection.
3. Sharing intravenous drug paraphernalia.
4. Donating body fluids including blood, plasma or sperm.
5. Signing any organ donor card or document.

Within ten days of the date of the Health Directive you will participate in counseling under the direction of the Indiana State Department of Health. You will initiate the counseling by calling Bridgette McLaurin at the Damien Center in Indianapolis, IN. Ms. McLaurin will be your counselor, or assign you to another qualified HIV counselor. The telephone # is 317/632-0123. The purpose of this counseling is to assure that you understand and will practice behaviors that will prevent the spread of this infection.

Your failure or refusal to comply with this Health Directive may result in the filing of a court action under IC 16-41-9-1 to obtain an order for restrictions upon you in order to protect the public's health.

ISSUED THIS DAY OF

BY:

Gregory N Larkin, M.D., F.A.A.F.P.
State Health Commissioner
Indiana State Department of Health

Local Health Officer
County Health Department

Indiana State Department of Health
October 27, 2010

Contact Information

Marsha Ford, Public Health Investigator

Direct: 317-233-7211

Toll free: 800-376-2501

Indiana State Department of Health

2 North Meridian Street, 6-C

Division of HIV/STD/Viral Hepatitis

Indianapolis, IN 46204